

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

CHARLES SINGER,

Plaintiff(s),

Case No. 2:22-CV-291 JCM (EJY)

ORDER

V.

R.C. WILLEY HOME FURNISHINGS,
et al.,

Defendant(s).

Presently before the court is defendant RC Willey Home Furnishings's motion for judgment on the pleadings. (ECF No. 42). Plaintiff Charles Singer filed a response (ECF No. 46), to which defendant replied (ECF No. 47).

Also before the court is Magistrate Judge Elayna Youchah's report and recommendation ("R&R"). (ECF No. 51). She recommends that plaintiff's motion to amend his complaint (ECF No. 38) be denied, with prejudice. Plaintiff did not object to the R&R, and the time to do so has now passed.

I. Background

As the court discussed in its order on the first motion to dismiss brought by co-defendant Richland Holdings, the instant case involves a credit reporting dispute. According to the complaint, in 2010 plaintiff opened a line of credit with defendant and incurred \$1,531 in debt. (ECF No. 1). He failed to make payments on that debt, and defendant placed the account in collections with Richland, a third-party collections agency, in 2016. (*Id.*)

Five years later, in 2021, plaintiff viewed his credit reports and discovered entries (“tradelines”) for both defendant and Richland. (*Id.*) Defendant’s tradeline, although listed as

1 “charged off,” showed plaintiff owed \$1,531 at one time. (*Id.*) Richland’s tradeline showed a
 2 balance of \$4,475, the amount that debt had grown to since placement in collections. (*Id.*)
 3 Plaintiff then sent dispute letters to the credit reporting agencies alleging that the debt should be
 4 reported on only one of the two tradelines. (*Id.*) None of the reporting agencies removed this so-
 5 called “double reporting.” (*Id.*)

6 Plaintiff then brought this lawsuit alleging violations of the Fair Credit Reporting Act
 7 (“FCRA”) and Fair Debt Collections Practices Act (“FDCPA”) against the reporting agencies,
 8 Richland, and defendant. (*Id.*) He has since settled with the reporting agencies (ECF Nos. 29;
 9 36), and the court dismissed the claims against Richland (ECF No. 37). Defendant now seeks
 10 judgment on the pleadings for the claim against it (ECF No. 42), and plaintiff seeks to amend his
 11 complaint to both revive the claims against Richland and bolster his claim against defendant
 12 (ECF No. 38).

13 **II. Legal Standard**

14 Motions for judgment on the pleadings pursuant to Federal Rule of Civil Procedure 12(c)
 15 are “functionally identical” to motions to dismiss for failure to state a claim under Federal Rule
 16 of Civil Procedure 12(b)(6). *Dworkin v. Hustler Magazine Inc.*, 867 F.2d 1188, 1192 (9th Cir.
 17 1989). In reviewing a motion for judgment on the pleadings pursuant to Rule 12(c), the court
 18 “must accept all factual allegations in the complaint as true and construe them in the light most
 19 favorable to the non-moving party.” *Fleming v. Pickard*, 581 F.3d 922, 925 (9th Cir. 2009).

20 “[J]udgment on the pleadings is proper ‘when, taking all the allegations in the non-
 21 moving party’s pleadings as true, the moving party is entitled to judgment as a matter of law.’”
 22 *Ventress v. Japan Airlines*, 486 F.3d 1111, 1114 (9th Cir. 2007) (citation omitted). The
 23 allegations of the nonmoving party must be accepted as true while any allegations made by the
 24 moving party that have been denied or contradicted are assumed to be false. *MacDonald v.*
Grace Church Seattle, 457 F.3d 1079, 1081 (9th Cir. 2006).

25 The court typically may not consider matters outside the pleadings on a Rule
 26 12(c) motion lest the motion be treated as one for summary judgment. *See* Fed. R. Civ. P. 12(d).
 27 But the court can consider matters properly subject to judicial notice under Federal Rule of
 28

1 Evidence 201. *Khoja v. Orexigen Therapeutics, Inc.*, 899 F.3d 988, 1002 (9th Cir. 2018). The
 2 court can also consider documents whose contents are merely alleged in a complaint and whose
 3 authenticity no party questions under the incorporation by reference doctrine. *Northstar Fin.*
 4 *Advisors Inc. v. Schwab Invs.*, 779 F.3d 1036, 1043 (9th Cir. 2015); *United States v. Ritchie*, 342
 5 F.3d 903, 907–08 (9th Cir. 2003) (holding that courts can consider a document incorporated by
 6 reference “if the plaintiff refers extensively to the document or the document forms the basis of
 7 the plaintiff’s claim”).

8 **III. Discussion**

9 As an initial matter, no objections were filed to Magistrate Judge Youshah’s R&R. Thus,
 10 the court is not obligated to review it *de novo*. 28 U.S.C. § 636(b)(1) (requiring courts to “make a
 11 *de novo* determination of those portions of the report or specified proposed findings to which
 12 objection is made”); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en
 13 banc) (“[T]he district judge must review the magistrate judge’s findings and recommendations *de*
 14 *novo if objection is made*, but not otherwise.” (emphasis in original)). Therefore, the court will
 15 ADOPT the R&R in full. Plaintiff’s motion to amend his complaint is DENIED, with prejudice.

16 In light of that, the court will also GRANT defendant’s motion for judgment on the
 17 pleadings and dismiss the remaining claim against defendant with prejudice. Plaintiff’s
 18 opposition to the motion is based entirely on the assumption that the court would grant his
 19 motion to amend and argues that the amended complaint remedies the deficiencies that led the
 20 court to partially dismiss the original complaint. He fails to make any argument at all that
 21 differentiates defendant from Richland in the original complaint, or that the court’s reasoning in
 22 the order on the original motion to dismiss should not also apply to defendant.

23 The court is not plaintiff’s lawyer, nor will it invent arguments for him that he did not
 24 make. See *Couturier v. Am. Invscorp.*, No. 2:12-cv-01104-APG-NJK, 2013 WL 4499008, at
 25 *3 (D. Nev. Aug. 20, 2013) (“A judge is the impartial umpire of legal battles, not a party’s
 26 attorney. He is neither required to hunt down arguments the parties keep camouflaged, nor
 27 required to address perfunctory and undeveloped arguments.”). Indeed, plaintiff’s failure to
 28 present any argument at all as to sufficiency of his original complaint constitutes consent to

1 granting of defendant's motion on the basis of that argument. *See* LR 7-2(d); *Hansen v.*
2 *Albertsons Companies, LLC*, No. 2:19-cv-02050-JAD-EJY, 2020 WL 7711920, at *5 (D. Nev.
3 Dec. 28, 2020) ("The failure-to-oppose rule [in Local Rule 7-2(d)] applies equally to specific
4 arguments made in moving papers.").

5 Plaintiff's complaint (as to both Richland and defendant) is based on the premise that
6 reporting the debt on separate tradelines is inaccurate. As the court determined once before and
7 now reiterates, it is not as a matter of law. The court has already found that "there is nothing
8 misleading or inaccurate about the two tradelines," it is "clear" that they "refer to the
9 same debt," and "no one would be misled into believing they are two separately
10 collectible, currently owing debts." (ECF No. 37 at 6–7). That conclusion applies with
11 equal force to defendant.

12 **IV. Conclusion**

13 Accordingly,

14 IT IS HEREBY ORDERED, ADJUDGED, and DECREED that Magistrate Judge
15 Youchah's R&R (ECF No. 51) be, and the same hereby is, ADOPTED.

16 IT IS FURTHER ORDERED that plaintiff's motion to amend his complaint (ECF No.
17 38) be, and the same hereby is, DENIED, with prejudice.

18 IT IS FURTHER ORDERED that defendant's motion for judgment on the pleadings
19 (ECF No. 42) be, and the same hereby is, GRANTED. Plaintiff's remaining claim is
20 DISMISSED, with prejudice.

21 The clerk is instructed to close this case.

22 DATED June 26, 2023.

23 
24 UNITED STATES DISTRICT JUDGE

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